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7 Attorneys for the Arizona State Board of Pharmacy

8 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**
9

10 In the Matter of

11 **PAUL LEWIS,**

12 Holder of License No. S007190
As a Pharmacist
13 In the State of Arizona

Board Case No. 10-0041-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY AND
CONTINUING EDUCATION**

14
15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Paul Lewis ("Respondent"),
18 holder of Pharmacist License Number S007190 in the State of Arizona, and the Board
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
20 ("Consent Agreement") as a final disposition of this matter.

21 **RECITALS**

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
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26

1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing he could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3725 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, he may not
25 revoke his acceptance of the Consent Agreement or make any modifications to the
26

document regardless of whether the Consent Agreement has been signed by the Executive Director. Any modification to this original document is ineffective and void unless mutually agreed by the parties in writing.

9. This Consent Agreement is subject to the approval of the Board and is effective only when accepted by the Board and signed by the Executive Director. In the event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party, except that the parties agree that should the Board reject this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or any records relating thereto.

10. If a court of competent jurisdiction rules that any part of this Consent Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full force and effect.

11. Respondent understands that this Consent Agreement is a public record that may be publicly disseminated as a formal action of the Board and may be reported as required by law to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

12. Respondent understands that any violation of this Consent Agreement constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-1901.01(B)(20), -1927(A)(1).

13. Respondent agrees that the Board will adopt the following Findings of Fact, Conclusions of Law and Order.

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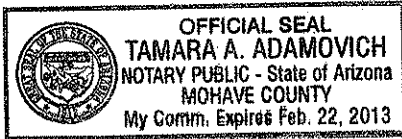
1 ACCEPTED AND AGREED BY RESPONDENT

2 Paul B. Lewis

3 Paul Lewis

Dated: 12.24.09

4 Subscribed and sworn to before me in the County of MOHAVE, State of ARIZONA,
5 this 24 day of Dec 24, 2009, by Paul Lewis.



8 NOTARY PUBLIC

9 My Commission expires: Feb 22 2013

10 FINDINGS OF FACT

11 1. The Board is the duly constituted authority for licensing and regulating the
12 practice of pharmacy in the State of Arizona.

13 2. Respondent is the holder of license number S007190 to practice as a
14 pharmacist in the State of Arizona.

15 3. During all relevant times to these findings, Respondent worked as the
16 pharmacist-in-charge at UpTown Drug in Kingman, Arizona (the "Pharmacy").

17 4. In July 2009, Pharmacy staff provided a copy of a wife's prescription
18 information to the husband. The wife had not granted the Pharmacy permission to
19 disclose her prescription information to her husband.

20 5. The Pharmacy's disclosure of the wife's prescription information was not a
21 permitted disclosure under the Health Insurance Portability Accountability Act
22 ("HIPPA"). See 45 C.F.R. § 164.502.
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1 6. As pharmacist-in-charge, Respondent was charged with ensuring that
2 pharmacists, interns, and technicians in the Pharmacy complied with Board directives.
3 Arizona Administrative Code R4-23-610(A).
4

5 CONCLUSIONS OF LAW

6 1. The Board possesses jurisdiction over the subject matter and over
7 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

8 2. The Board may discipline a pharmacist who has engaged in unprofessional
9 conduct. A.R.S. § 32-1927(A)(1).

10 3. The conduct described in the Findings of Fact constitutes a violation of
11 A.R.S. § 12-2292(A) (Unless otherwise provided by law, all medical records and
12 payment records, and the information contained in the medical records and payment
13 records, are privileged and confidential. A health care provider may only disclose that
14 part or all of a patient's medical records and payment records as authorized by state or
15 federal law or written authorization signed by the patient or the patient's health care
16 decision maker).

17 4. The conduct described in the Findings of Fact constitutes a violation of
18 A.R.S. § 32-1901.01(B)(2) (Violating any federal or state law, rule or regulation relating
19 to the manufacture or distribution of drugs and devices or the practice of pharmacy).

20 5. The conduct described in the Findings of Fact constitutes a violation of
21 A.R.S. § 32-1964(D) (A pharmacist, pharmacy permittee or pharmacist in charge shall
22 comply with applicable state and federal privacy statutes and regulations when releasing
23 patient prescription information).

24 ORDER

25 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY
26 ORDERED THAT Respondent shall:

1. Pay a civil penalty of \$1,000.00 within **90 days** of the effective date of this Order; and

2. Successfully complete and provide proof of successful completion to the Board of three (3) contact hours (0.3 C.E.U.) of American Council on Pharmaceutical Education (ACPE) courses within **6 months** of the effective date of this Order. The courses shall be pre-approved by Board staff, shall be limited to topics dealing with patient record keeping and confidentiality, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C. R4-23-204.

DATED this 13th day of JANUARY, 2010.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By:

Mal Ward

HAL WAND, R.Ph.
Executive Director

PAID
\$1000
#3752
12/27/09

1 ORIGINAL OF THE FOREGOING FILED
this 19 day of Jan, 2010, with:

2 Arizona State Board of Pharmacy
3 1700 West Washington, Suite 250
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL
this 19 day of Jan, 2010, to:

6 Paul Lewis
7 4754 Christy
8 Kingman, Arizona 86409
Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
this 19 day of Jan, 2010, to:

10 Elizabeth A. Campbell
11 Assistant Attorney General
12 1275 W. Washington Street, CIV/LES
13 Phoenix, Arizona 85007
14 Attorney for the Board

15 #640877